

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:
Avery Landing Site
Avery, Idaho

Potlatch Corporation, Potlatch Forest
Products Corporation, and Potlatch Land
and Lumber, LLC,

Respondents.

UNILATERAL ADMINISTRATIVE
ORDER

U.S. EPA Region 10
Docket No. CERCLA-10-2013-0094

Proceeding Under Section 106(a) of the
Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C.
§ 9606(a); and Section 7003(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6973(a).

I. JURISDICTION AND GENERAL PROVISIONS

A. This Unilateral Administrative Order ("Order") is issued pursuant to authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9606(a), and delegated by the President to the Administrator of the United States Environmental Protection Agency ("EPA"). This Order is further issued pursuant to authority vested in the Administrator of EPA by Section 7003(a) of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973(a). These authorities have been delegated by the Administrator of EPA to the Regional Administrators of EPA and by the Regional Administrator of Region 10 of EPA to the Director of the Office of Environmental Cleanup for Region 10 of EPA.

B. This Order pertains to the Avery Landing Site located approximately three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho ("Site"). EPA has determined that an actual or threatened release of hazardous substances at the Site, and the handling, storage, treatment, transportation or disposal of solid waste at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment. EPA has also determined that hazardous substances and solid waste are commingled at the Site.

C. EPA performed a removal action on portions of the Site in 2012. Nevertheless, there remains an imminent and substantial endangerment on other portions of the Site which may be presented by an actual or threatened release of hazardous substances and the handling, storage, treatment, transportation or disposal of solid waste. Further, hazardous substances and solid waste continue to be commingled on these remaining unaddressed portions of the Site.

D. This Order is issued to Potlatch Corporation ("PC"), Potlatch Forest Products Corporation ("PFPC") and Potlatch Land and Lumber, LLC ("PLL") who are together referred to herein as "Respondents". PLL is an owner or operator of the Site, or a portion thereof, and PC and PFPC owned or operated the Site, or a portion thereof, at the time of disposal of hazardous substances. Moreover, PC is a generator, transporter, owner or operator who has contributed to the past or present handling, storage, treatment, transportation or disposal of solid waste at the Site.

E. Respondents are required by this Order to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the actual or threatened release of hazardous substances and the past or present handling, storage, treatment, transportation or disposal of solid waste at the Site.

F. The State of Idaho ("State") has been notified by EPA of this Order in conformance with Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

II. PARTIES BOUND

A. This Order applies to and is binding upon Respondents and their directors, officers, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, the transfer of assets or real or personal property shall not alter the responsibilities of Respondents under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order such that compliance or noncompliance by one or more of Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondents.

B. Respondents shall provide their Project Manager, consultants, contractors, subcontractors and representatives who have responsibilities for the Site with a copy of this Order in advance of the implementation of on-Site activities, and shall assure compliance with this Order by these persons and organizations. During the pendency of this Order, Respondents shall also provide a copy of this Order to each successor in interest before the transfer of a controlling interest in ownership rights, stock or assets. Further, notwithstanding any such transfer, Respondents shall remain fully responsible at all times for compliance with this Order.

III. DEFINITIONS

Unless otherwise expressly provided herein, the terms used in this Order or in the appendices attached hereto that are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, Section 1004 of RCRA, 42 U.S.C. § 6903, or in applicable regulations promulgated there under shall have the meaning assigned to such terms in those laws. In addition, whenever the terms listed below are used in this Order or the appendices attached hereto, the following definitions shall apply:

A. "Action Memorandum" shall mean the *Action Memorandum for the Avery Landing Site located near Avery, Shoshone County, Idaho* that was issued by EPA on July 5, 2011, and which sets forth the removal action selected by EPA for the Site. The Action Memorandum also includes, with the exception of the *Confidential Enforcement Addendum*, all attachments thereto. The Action Memorandum was amended by EPA on April 13, 2012, to account for an increase in the amount of costs anticipated to be expended by EPA toward response actions for the Site.

B. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

C. "Day" or "day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business on the next working day.

D. "Effective Date" shall mean the effective date of this Order as provided in Section XVIII herein.

E. "EPA" shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

F. "EPA Hazardous Substances Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

G. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan codified at 40 C.F.R. Part 300, including any amendments thereto.

H. "Order" shall mean this *Unilateral Administrative Order* and all appendices attached hereto. In the event of conflict between this Order and any appendix, this Order shall control.

I. "OSC" shall mean the Federal On-Scene Coordinator for EPA as identified in Section VII herein.

J. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral or an upper or lower case letter.

K. "RCRA" shall mean the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k.

L. "Respondents" shall mean Potlatch Corporation, Potlatch Forest Products Corporation and Potlatch Land and Lumber, LLC.

M. "Section" shall mean a portion of this Order identified by a Roman numeral.

N. "Site" shall mean the Avery Landing Site encompassing parcels of real property owned by PLL, the United States, the State of Idaho - Department of Lands, and Larry and Ethel Bencik. The Site is located approximately three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho, and is depicted on the diagram attached hereto as Appendix A and incorporated by this reference herein.

O. "United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

P. "Work" shall mean all activities Respondents are required to perform under this Order to implement the removal action set forth in the Action Memorandum with the exception of the retention of records requirements in Paragraph H of Section VI herein.

Q. "Work Plan" shall mean the document developed and approved pursuant to Paragraph D of Section VI herein, and any modifications thereto made in accordance with this Order.

IV. FINDINGS OF FACT

A. The Site is located about three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho, and is immediately adjacent to the St. Joe River. Chicago, Milwaukee, St. Paul & Pacific Railroad ("CM-RR") was an owner of the Site from 1909 to 1980, and conducted various operations at the Site, including, but not necessarily limited to, switching station and maintenance work. From 1977 to 1985, CM-RR underwent bankruptcy reorganization.

B. PC leased property at the Site from CM-RR beginning in 1973, and obtained an ownership interest from CM-RR in a portion of the Site in 1980. This ownership interest was transferred to PFPC in 2005 and then to PLL in 2008. During the time that PC held a property interest at the Site, the property was leveled, graded and used for various purposes, including, but not necessarily limited to, log storage, parking, a rail line, and housing for employees and others. In addition to the property owned by PLL, other properties at the Site are owned by the United States, the State of Idaho - Department of Lands ("IDL"), and Lawrence and Ethel Bencik ("Benciks").

C. In 1988, PC was notified by the State of Idaho, Department of Health and Welfare - Division of Environmental Quality ("IDHW-DEQ") of observations of oil migrating from the Site to the St. Joe River. These observations date as far back as during or before 1970. Following this notice, PC examined its property at the Site and found oil intermixed with soil and a 2-foot thick mass of oil on groundwater at a depth of 13 feet below ground surface. PC further observed there to be emissions of oil to the St. Joe River from along a 30-foot area of the shoreline and evidence of past emissions of oil impacting a 200-foot area along the river bank. In 1989, PC observed more instances of oil intermixed with soil and in well water on its property and additional emissions of oil from the Site to the St. Joe River.

D. Investigations by IDHW-DEQ in the late 1980s and early 1990s showed there was oil at a depth of four feet or more in the water table underlying the Site. In 1992, samples obtained by EPA showed there was benzene, arsenic, lead, polychlorinated biphenyls ("PCBs"), volatile organic compounds ("VOCs") and semi-volatile organic compounds ("SVOCs") in groundwater at the Site. EPA notified PC of these findings.

E. PC entered into a consent order with IDHW-DEQ in 1994 which obligated PC to construct and operate a *free phase petroleum product* recovery system at the Site. The phrase *free phase petroleum product* is synonymous in this matter with *light non-aqueous phase liquid* ("LNAPL") and refers to oil which floats on groundwater. PC built and operated a system that included the following components: (1) excavation of 200 feet or more of a recovery trench along the shoreline of the St. Joe River; (2) extraction of LNAPL and groundwater from the recovery trench; (3) on-Site storage of approximately 1,290 gallons of extracted LNAPL and eventual disposal of this LNAPL off-Site; (4) excavation of an infiltration trench on property of the United States; and (5) discharge into the infiltration trench of groundwater, and in some instances oil, extracted from the recovery trench. PC operated this system on an intermittent basis from 1994 to 2000.

F. Whether or not PC initially planned to separately extract LNAPL and groundwater from the recovery trench, the type of pumps utilized by PC could have caused LNAPL to be extracted along with groundwater. PC also did not employ an oil/water separator or any other form of treatment or filtration for the purpose of removing LNAPL or oil or hazardous substances dissolved in groundwater prior to discharging the extracted groundwater into the infiltration trench. Further, PC did not conduct any tests of the extracted groundwater for the purpose of determining the presence or absence of LNAPL or dissolved-phase oil or hazardous substances.

G. In at least one recorded instance, and there may have been other undocumented occurrences, PC discharged LNAPL directly into the infiltration trench. EPA investigations have also shown that there is oil dissolved in groundwater at the Site. Although PC has not provided EPA with an accounting of the total volume of groundwater that was pumped from the recovery trench and deposited into the infiltration trench during operation of the recovery system, EPA calculations demonstrate that 265,000,000 gallons of groundwater may have been so discharged by PC onto property of the United States. EPA calculations further demonstrate that there could have been over 40,000 pounds total mass of oil dissolved in this volume of groundwater.

H. While conducting work at the Site in 2012, EPA discovered oil and hazardous substances throughout the area utilized by PC as an infiltration trench during its operation of the recovery system. The lack of any treatment or other precautions by PC during the extraction and transfer of groundwater to this area, along with direct deposits of LNAPL by PC, would account for this contamination.

I. The direction of groundwater flow at the Site is generally from the property of the United States toward the St. Joe River. By discharging extracted groundwater into the infiltration trench, this water would have then percolated through the soil and into the aquifer. After entering the aquifer, the added water would have propelled the movement of LNAPL and contaminants in the groundwater toward other areas of the Site and the St. Joe River.

J. The emissions of oil from the Site to the St. Joe River continued to be observed during and after operation of the recovery system. The failure of this system to prevent the emissions of oil to the St. Joe River lead a PC contractor to opine in 2000 that groundwater flow may be the cause of contaminant migration from the Site to the river. The PC contractor further estimated the expanse of the oil-impacted area of the Site to have increased to approximately 92,000 square feet, and the depth of oil to have reached as much as 18-feet below ground surface.

K. A modification to the consent order between IDHW-DEQ and PC was agreed to in 2000 by PC and the State of Idaho, Department of Environmental Quality ("IDEQ"). As part of its obligations under this modification, PC inserted a below ground level vertical barrier wall to protect against the continued movement of oil from the Site to the St. Joe River. PC also excavated a recovery trench and installed recovery wells along the shoreline in an attempt to collect oil that was anticipated to accumulate against this barrier wall.

L. Oil sheens on the surface water of the St. Joe River and emissions of oil from the Site to the river continued to be observed by PC and others following installation of the barrier wall and operation of the recovery trench and wells. These unabated discharges of oil caused a contractor for PC to opine that the migration of oil to the St. Joe River could now be due to breaches in the barrier wall or to the installation of this barrier wall having resulted in the creation of new pathways for groundwater and oil to flow from the Site to the river.

M. In 2007, EPA performed an investigation of the Site and observed oil on surface water and groundwater, in subsurface soil, and being emitted from along and below the shoreline to the St. Joe River. EPA further found there to be oil discoloration on rip rap and vegetation along the shoreline. EPA obtained samples which showed there to be arsenic, lead, manganese, mercury, polynuclear aromatic hydrocarbons ("PAHs") and PCBs in subsurface soil and/or on groundwater. In addition, EPA found that surface water in the St. Joe River contained PAHs, including benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthrene and chrysene. Based on this investigation as well as on other information, EPA determined it would be appropriate to perform a removal action at the Site and so informed PC.

N. In 2008, PC and PFPC entered into an *Administrative Settlement Agreement and Order on Consent* ("ASAOC") with EPA in *CERCLA Docket No. 10-2008-0135*. Under the ASAOC, PC and PFPC agreed and were obligated to perform an engineering evaluation/cost analysis ("EE/CA") for the Site. The EE/CA was intended to present an examination of the data, information and removal action alternatives for the Site. As part of the EE/CA, PC and PFPC also gathered additional Site data. During the EE/CA, there were observations of oil in the subsurface soil and on groundwater at the Site, as well as in sediment and on surface water of the St. Joe River. Sampling and analysis by PC and PFPC showed there was oil, metals, PCBs, VOCs, and SVOCs, including PAHs, in the subsurface soil at the Site and the sediment of the St. Joe River. The groundwater at the Site was also found to contain PAHs and the surface water of the St. Joe River was found to contain PAHs and metals.

O. PC and PFPC prepared a series of draft EE/CA reports that were all deemed deficient by EPA. As a result, EPA produced the EE/CA report for the Site. EPA made the EE/CA report available for public comment, considered the comments received from the public, including comments from Respondents and the State, and developed and issued responses to these comments. According to the EE/CA report, the following chemical compounds are present at the Site: (1) PCBs; (2) carcinogenic PAHs consisting of benzo[a]anthracene, chrysene, benzo[a]pyrene, benzo[b]fluoranthene and dibenz[a,h]anthracene; (3) non-carcinogenic PAHs consisting of acenaphthene, fluorene, naphthalene and methylnaphthalene isomers; (4) metals consisting of arsenic, manganese and mercury; and (5) SVOCs consisting of 4,6-dinitro-2-methylphenol, 4-nitroaniline and n-nitosodiphenylamine.

P. The concentrations of PAHs and metals in soil at the Site exceed the *Human Health Medium-Specific Screening Levels* ("HHMSSLs") developed by EPA and/or the guidelines in the *Risk Evaluation Manual* ("REM") developed by the State. Also, the concentrations of PAHs, metals, and PCBs in or on groundwater at the Site exceed the REM guidelines. Further, the concentration of PAHs in or on groundwater at the Site exceed the HHMSSLs for tap water and the concentration of metals in or on groundwater at the Site exceed the HHMSSLs for tap water and/or the *Maximum Contaminant Levels* for drinking water established under the *Safe Drinking Water Act*. In addition, the concentrations of PAHs and metals in or on the surface water of the St. Joe River adjacent to the Site exceed the REM guidelines and the concentration of benzo [a] pyrene in or on this surface water exceed the *Ambient Water Quality Criteria*.

Q. The plume of oil or LNAPL which is floating on the groundwater at the Site increased in size from 2000 to 2006 and further expanded from 2006 to 2011. The LNAPL plume had also come to be located in the aquifer of all properties at the Site, including the areas owned by PLL, Benciks, IDL and the United States. In addition to this increase in size, the LNAPL plume had been advancing in the direction of the St. Joe River.

R. The St. Joe River is used for domestic water supply and recreation and also provides habitat for cold water communities and salmonid spawning. Canada Lynx and Bull Trout are protected under the *Endangered Species Act* and are present in the vicinity of the Site. There are ecological receptors that may be exposed to contaminants at the Site through direct contact or ingestion, and the resulting exposure could cause adverse effects on these receptors.

S. The VOCs, SVOCs, carcinogenic and non-carcinogenic PAHs, PCBs and metals in the subsurface soil and on groundwater at the Site and in the sediments and surface water of the St. Joe River exceed applicable Federal and/or State guidelines. There are no restrictions on public access to the Site and entry by persons may be gained from land or water. There are nearby residents, visitors, recreationists, commercial and municipal employees and trespassers who could be exposed to the oil, chemicals and chemical compounds at the Site.

T. Precipitation and other run-off inducing events will tend to further expand the size of LNAPL plume continue to push this plume from the Site toward the St. Joe River, resulting in further risk of exposure by humans and biota to oil and chemicals compounds in or on the groundwater. In addition to the LNAPL plume, the groundwater at the Site is likely transporting suspended and dissolved phase oil and chemical compounds toward the St. Joe River.

U. EPA developed the *Integrated Risk Information System* ("IRIS") which set forth scientific assessments of the effects on human health from exposure to chemical compounds. The EPA website at <http://cfpub.epa.gov/ncea/iris/index.cfm?fuseaction=iris.showSubstanceList> contains this information in electronic form. Arsenic and benzene are known human carcinogens according to IRIS, and each of these chemical compounds is present at the Site. Nine of the chemical compounds identified by IRIS as probable or possible human carcinogens are also present at the Site, including lead, PCBs, naphthalene, n-nitrosodiphenylamine, dibenz[a,h]anthracene, chrysene, benzo[b]fluoranthrene, benzo[a]pyrene and benz[a]anthracene. IRIS also identifies there to be non-carcinogenic health hazards, such as neurobehavioral impairment and respiratory and autonomic system effects, for some of the above identified chemical compounds, as well as for other chemical compounds which are present at the Site, including acenaphthene, fluorine, manganese and mercury. Dermal, oral and inhalation routes are identified in IRS as potential ways by which humans may be exposed to chemical compounds, and the conditions at the Site do not currently prevent such potential routes of exposure to the IRIS chemical compounds present at the Site.

V. Relying on the EE/CA report and other pertinent information, EPA issued the Action Memorandum setting forth the removal action for cleanup of the Site. The goals of the removal action are to prevent the continuing release of oil and chemical compounds from the Site to the St. Joe River, and to reduce the oil and chemical compounds in soil and sediment and in and on groundwater to acceptable levels. The selected removal action includes, but is not limited to, the following components: (1) excavation and off-Site disposal of contaminated soil; (2) recovery, if possible, of oil and treatment of groundwater and surface water that accumulates in excavation or containment areas; (3) backfilling of excavated areas with clean material; (4) removal of all or a portion of the recovery system and containment barrier and appurtenances thereto installed by PC in 1994 and 2000 along the banks of the St. Joe River; (5) reconstruction of the river bank, where appropriate; (6) installation of groundwater monitoring wells; (7) evaluation and, if deemed necessary and appropriate by EPA, protection or mitigation for historic properties; (8) implementation of best management construction and green cleanup practices; (9) institutional controls placed on uses of the Site following the completion of on-Site actions; and (10) long-term monitoring and maintenance.

W. In 2011, at the request of EPA, additional data about the PLL-owned portion of the Site was obtained by Respondents. This data shows there to be VOCs, SVOCs, metals and PCBs in the soil of PPL-owned property at the Site, as well as oil in the groundwater underlying this area. This data does not alter the removal action selected for the Site, but does allow for refinement of the work for certain areas of the Site.

X. In 2012, EPA issued *Unilateral Administrative Order for Removal Response Action* ("UAORRA") to Respondents in *Docket No. CERCLA-10-2012-0120*. Under the UAORRA, Respondents were required to perform the removal action for PPL-owned property and adjacent IDL-owned property at the Site. Prior to the performance of cleanup work under the UAORRA, however, EPA and Respondents entered into *Administrative Order on Consent* ("AOC") in *Docket No. CERCLA-10-2012-0141*. Under the AOC, Respondents provided EPA with \$1,750,000 which was then applied toward the performance by EPA of a portion of the removal action for the above-identified properties. EPA then held the UAORRA in suspension and abeyance.

Y. In 2012, EPA performed portions of the removal action for the Site. In this regard, EPA undertook the cleanup of the Bencik-owned property and the IDL-owned property adjacent thereto. In addition, EPA conducted cleanup of the property of the United States and in order to effectively do so, EPA deconstructed and rebuilt the highway which runs over this property. During performance of this work, EPA discovered oil and hazardous substances distributed throughout the area of property of the United States where PC had previously created an infiltration trench and discharged LNAPL and untreated and unfiltered groundwater extracted from elsewhere at the Site. The work on the property of the United States then necessarily included cleanup of this area. Further, EPA implemented cleanup work on those areas of the PPL-owned property which border the properties of the Bencicks and the United States. Lastly, EPA performed some of the cleanup work for the IDL-owned property which lies between the PPL-owned property and the St. Joe River.

Z. During the cleanup in 2012, EPA excavated approximately 47,735 cubic yards of soil and other material contaminated by oil and hazardous substances and transported this waste off-Site for disposal at a licensed landfill. EPA backfilled excavated areas with clean soil. EPA also pumped, treated and removed oil and hazardous substances from approximately 15,254,600 gallons of groundwater. In addition, EPA transported approximately 160,067 pounds of scrap metal off-Site for recycling. Following performance by EPA of these portions of the removal action, soil, groundwater and other contaminated materials remain on the PPL-owned property and the IDL-owned property adjacent thereto. The removal action selected in the Action Memorandum calls for the cleanup of these areas. It is anticipated that removal action undertaken pursuant to this Order will address the remaining tens of thousands of cubic yards of contaminated soil and millions of gallons of contaminated groundwater at the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the foregoing Findings of Fact and the administrative record, EPA makes the following conclusions of law and determinations:

A. The Site is a *facility* as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

B. The chemical compounds at the Site include one or more *hazardous substance* as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and *solid waste* which has been *discarded* within the meaning of Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

- C. Respondents are each a *person* as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- D. Respondents are each a liable owner, operator and/or person within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- E. There is an actual or threatened *release* of a hazardous substance at the Site as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and there has been the *disposal* of solid waste at the Site as defined by Section 1004(3) of RCRA, 42 U.S.C. § 6903(3).
- F. The conditions at the Site may present an *imminent and substantial endangerment* to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- G. The endangerment which may be present at the Site, in whole or in part, is the result of the release or threat of release of hazardous substances and the past or present handling, storage, treatment, transportation, or disposal of solid waste.
- H. PC has *contributed to* or is *contributing to* the handling, storage, treatment, transportation or disposal of solid waste at the Site within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- I. The hazardous substances and solid waste are commingled in soil and groundwater at the Site.
- J. The removal action selected in the Action Memorandum and the Work required by this Order are necessary to protect the public health or welfare or the environment and are consistent with CERCLA, RCRA, and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300.

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, and upon the administrative record, EPA orders and directs Respondents to perform the following actions and comply with the following provisions, and in so doing to abide by and act in accordance with all approvals, disapprovals, acceptances, determinations, requests, revisions and modifications of EPA.

A. Project Manager

1. Respondents shall have a Project Manager at all times under this Order who is responsible for administration of the Work. Prior to issuance of this Order, Mr. Terry Cundy was interacting with EPA in this capacity on behalf of Respondents. During the pendency of this Order, the person who holds the position of Project Manager shall be subject to disapproval or acceptance by EPA. In this regard, Mr. Terry Cundy is hereby accepted by EPA as the Project Manager for Respondents.

2. To change the person who holds the position of Project Manager, Respondents shall first notify EPA. Each such notice shall be made to EPA in writing and shall include the name, electronic and mailing addresses, telephone number and qualifications of the newly proposed Project Manager. If EPA disapproves of the newly proposed Project Manager, or if EPA disapproves of the previously approved Project Manager, within **3 days** of this disapproval, Respondents shall provide EPA, in writing, the name, electronic and mailing addresses, telephone number and qualifications of a newly proposed Project Manager.

3. The Project Manager or his duly designated representative shall be on-Site at all times during performance of the Work and shall be authorized in advance to make all cleanup decisions for Respondents. Receipt by the Project Manager of any notice or other communication from EPA relating to this Order shall constitute receipt by Respondents.

B. Contractors and Subcontractors

1. Respondents shall have a consulting contractor and a construction contractor and such other contractors and subcontractors as may be necessary to perform the Work. During the pendency of this Order, each such contractor and subcontractor shall be subject to the disapproval or acceptance by EPA.

2. Prior to issuance of this Order, GeoEngineers, Inc. ("GEI") was interacting with EPA in the capacity of consulting contractor for Respondents, and GEI represented to EPA that Pacific Pile and Marine ("PPM") had been selected by Respondents as the construction contractor for the Work. GEI and PPM are hereby accepted by EPA as the consulting contractor and construction contractor, respectively.

3. Within **3 days** of the Effective Date, Respondents shall notify EPA of the names and qualifications of all other contractors and subcontractors sought to be retained by Respondents to perform the Work. Within **3 days** of the Effective Date, Respondents shall also provide EPA with the names and qualifications of the primary persons at PPM who will be performing the Work.

4. To alter the consulting contractor, Respondents shall first demonstrate to the satisfaction of EPA that the newly proposed consulting contractor meets the compliance requirements of the American National Standards Institute/American Society for Quality (ANSI/ASQ), "Quality Systems for Environmental Data and Technology Programs – Requirements with Guidance for Use," Publication ANSI/ASQ E4-2004 (2004), by submitting a copy of a proposed Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01-002, March 2001).

5. If EPA disapproves of a contractor or subcontractor, even one who was previously approved by EPA, within **3 days** of this disapproval, Respondents shall provide EPA with the name and qualifications of the new contractor or subcontractor, as the case may be, sought to be retained by Respondents.

C. Cleanup Activities

1. Respondents shall, at a minimum, perform the following cleanup activities: (a) excavation and off-Site disposal of contaminated soil; (b) recovery, if possible, of oil and treatment of groundwater and surface water that accumulates in excavation or containment areas; (c) backfilling of excavated areas with clean material; (d) removal of the oil recovery system and vertical containment barrier and appurtenances thereto installed by PC in 1994 and 2000 along the banks of the St. Joe River; (e) reconstruction of the river bank where deemed to be appropriate by EPA; (f) installation of new groundwater monitoring wells and refurbishing for use existing groundwater monitoring wells; (g) evaluation and if deemed necessary and appropriate by EPA protection or mitigation for historic properties; and (h) implementation of best construction management and green cleanup practices.

2. The on-Site cleanup activities shall be performed by Respondents on those properties at the Site that are owned or controlled by PLL or other Respondents as well as on the property adjacent thereto that is owned or controlled by IDL. Respondents shall not use other properties at the Site for the purpose of performing the Work without prior approval from EPA and consent of the property owner. Following the completion of the on-Site cleanup activities, Respondents shall conduct groundwater monitoring and the assessment of natural attenuation at the Site as may be prescribed by EPA.

D. Work Plan and Schedule

1. Prior to issuance of this Order, Respondents submitted drafts of a Work Plan and Schedule to EPA, and EPA provided Respondents with comments on each of these draft documents.

2. Within **3 days** of the Effective Date, Respondent shall provide EPA, for review and approval, a draft final Work Plan and Schedule for performance of the Work. EPA may approve, disapprove, require revisions to, or modify the draft final Work Plan and Schedule. If EPA notifies Respondents of revisions required thereto, Respondents shall provide EPA with a revised draft final Work Plan and Schedule which incorporates these revisions within **15 days** of this notification. Upon notice of approval or modification by EPA, Respondents shall implement the Work Plan in accordance with the Schedule. The Work Plan and Schedule may subsequently be modified by EPA and Respondents shall perform in accordance with any such modifications.

E. Health and Safety Plan

1. Prior to issuance of this Order, Respondents submitted a draft health and safety plan ("HASP") to EPA which pertains to protections of personnel for GEI during performance of on-Site activities. EPA provided Respondents with comments on this draft HASP and also requested drafts of HASPs for personnel of Respondents, PPM and other contractors and subcontractors, as well as an integrated HASP for all on-Site personnel.

2. Within **3 days** of the Effective Date, Respondents shall submit to EPA, for review and comment, a draft integrated HASP that ensures protection of the public health and safety during performance of on-Site activities under this Order. The draft integrated HASP shall be prepared in accordance with EPA's Standard Operating Safety Guide, (November 1984, updated July 1988). In addition, the draft integrated HASP shall comply with all current applicable Occupational Safety and Health Administration ("OSHA") regulations; Hazardous Waste Operations and Emergency Response; found at 29 C.F.R. Part 1910. Within **15 days** of receipt of any comments from EPA, Respondents shall submit a final integrated HASP to EPA incorporating therein all changes as may be provided in the comments from EPA. Thereafter, Respondents shall implement the final integrated HASP during performance of the Work.

F. Quality Assurance and Sampling

1. Prior to issuance of this Order, Respondents submitted a draft Quality Assurance, Quality Control, and Sampling and Analysis Plan ("QA/QC-SAP") to EPA. EPA provided Respondents with comments on the draft QA/QC-SAP.

2. Within **3 days** of the Effective Date, Respondents shall provide EPA, for review and comment, a draft final QA/QC-SAP that outlines all sampling, analysis, quality assurance ("QA"), quality control ("QC"), data validation and chain of custody to be performed pursuant to this Order. Within **15 days** of receipt of comments from EPA, Respondents shall submit a final QA/QC-SAP incorporating therein all changes as may be provided in the comments from EPA. Thereafter, Respondents shall implement the final QA/QC-SAP during the Work.

3. All sampling and analyses performed by Respondents pursuant to this Order shall conform to EPA direction, approval and guidance regarding sampling, QA, QC, data validation and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with applicable EPA guidance. Respondents shall follow the following guidance documents, as appropriate, for QA/QC and sampling: (a) *EPA Guidance for Quality Assurance Project Plans (QA/G-5)* (EPA/240/B-01/003, March 2001), <http://www.epa.gov/quality/qs-docs/g5-final.pdf>; (b) *EPA Guidance for Quality Assurance Project Plans (QA/G-5)* (EPA/240/R-02/009, December 2002); (c) *Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures*, OSWER Directive No. 9360.4-01; (d) *Environmental Response Team Standard Operating Procedures*, OSWER Directive Nos. 9360.4-02 to 9360.4-08; and (e) *Environmental Response Team Standard Operating Procedures*, http://www.epaossc.org/site/site_profile.aspx?site_id=2107.

4. Upon request by EPA, Respondents shall have a laboratory analyze samples submitted by EPA for QA monitoring. Respondents shall provide EPA with the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis under this Order. Respondents shall only use laboratories that have a documented quality system which complies with American National Standards Institute/American Society for Quality (ASI/ASQ), "Quality Systems for Environmental Data Technology Programs Requirements with Guidance for Use," Publication ANSI/ASQ E-4 (2004).

5. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents while performing the Work. Respondents shall notify EPA not less than **3 days** in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

6. Respondents shall perform QA/QC data validation procedures on all of the laboratory work, and generate QA/QC data validation memoranda.

G. Reporting

Respondents shall submit a written progress report to EPA every **7th day** after initiating the mobilization of persons, equipment or materials to the Site, and shall continue such reporting until the beginning of post-removal action monitoring or as may otherwise directed by EPA. Each such progress report shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of activities to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

H. Records, Data, Documentation and Information

1. Respondents shall provide EPA with access, at all reasonable times, to all records and documentation related to conditions at the Site and the Work. Further, within **3 days** of receipt by Respondents, Respondents shall provide EPA with the results of all laboratory validated sampling or tests and all other data generated or obtained by Respondents or their contractors pertaining to contamination at the Site.

2. Respondents shall for **10 years** following completion of the Work, preserve all documents and information relating to the Work or relating to oil or hazardous substances found on or released or discharged from the Site. At the end of this **10-year** period of time but at least **30 days** before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and shall, upon request, provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Paragraph at any time before expiration of the **10-year** period at the written request of EPA.

3. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by RCRA and Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA, 42 U.S.C. § 9604(e)(7)(F), shall not be claimed as confidential by Respondents. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

I. Off-Site Shipments

All hazardous substances removed off-Site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3) and 40 C.F.R. § 300.400, as well as in compliance with all other applicable laws.

J. Access to Property

1. Respondents shall provide employees, contractors, agents, consultants, designees and representatives of EPA with access to the Site and adjacent areas under the ownership or control of Respondents. Such access shall be provided for the purpose of performing or overseeing any or all of the removal action set forth in the Action Memorandum.

2. Where activities under this Order are to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements. If Respondents have not obtained such access agreements within **20 days** of the Effective Date, Respondents shall so notify EPA, in writing, and describe therein their efforts to obtain access. The failure of Respondents to undertake best efforts in obtaining access shall be a violation of this Order. Thereafter, EPA may assist Respondents in gaining access, to the extent necessary to effectuate the Work, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

K. Transfer of Interest

Respondents shall, at least **30 days** prior to the transfer of any interest in real property at the Site, provide written notice of this Order to the transferee and written notice to EPA of the transfer which includes the name and address of the transferee. Any such transfer shall not alter any obligations of Respondents under this Order. Further, Respondents shall ensure that each transferee allows EPA and its representatives access to the property of the transferee at the Site.

L. Compliance with Other Laws

Respondents shall perform the Work in accordance with all applicable local; state; and federal laws and regulations. All on-Site activities required pursuant to this Order shall to the extent practicable and considering the exigencies of the situation, as determined by EPA, attain applicable or relevant and appropriate requirements under federal environmental, state environmental, or facility siting laws.

M. Emergency Response and Notification of Releases/Discharges

1. If any incident or change in Site conditions during the Work causes or threatens to cause an additional release or discharge of oil or hazardous substances from the Site or an endangerment to the public health or welfare or the environment, Respondents shall immediately notify the OSC or, in the event of the unavailability of the OSC, the Regional Duty Officer at (206) 553-1263. Respondents shall take action as directed by the OSC or Regional Duty Officer and in accordance with all applicable provisions of this Order, including, but not limited to the integrated HASP, in order to prevent, abate or minimize such release, discharge, or threat.

2. In the event of any release or discharge of oil or a hazardous substance, Respondents shall immediately notify the National Response Center at (800) 424-8802, and Idaho State Communications at 1-800-632-8000 or (208) 334-4570. Respondents shall submit a written report to EPA within 2 days of each release or discharge, setting forth the events that occurred and the measures taken or to be taken to mitigate the release or discharge and any endangerment caused or threatened by the release or discharge and to prevent the reoccurrence of such event. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA, RCRA, the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251-1387, or the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001-11050.

N. Removal Action Report

1. Within 60 days of completion of all on-Site cleanup activities required under this Order, Respondents shall provide EPA, for review and approval, a draft Removal Action Report summarizing the actions taken under this Order. The draft Removal Action Report shall conform at a minimum with the provision titled *OSC Reports* in the NCP, 40 C.F.R. § 300.165, and OSWER Directive No. 9360.3-03 - *Removal Response Reporting*. The draft Removal Action Report shall also include the following components: (a) a listing of quantities and types of materials removed from the Site; (b) a discussion of removal and disposal options considered for the materials removed from the Site; (c) a listing of the ultimate destinations of the materials removed from the Site; (d) a presentation of the analytical results of all sampling and analyses performed by Respondents; (e) a description of any contamination remaining at the Site; (f) a description of the problems encountered during the Work; (g) QA/QC data validation memoranda; and (h) appendices containing all relevant documentation generated during the cleanup activities (e.g., manifests, invoices, bills and contracts).

2. Within 30 days of receipt of comments from EPA on the draft Removal Action Report, Respondents shall provide EPA with a final Removal Action Report incorporating therein all changes recommended by EPA. The final Removal Action Report shall also contain the following certification signed by a person who supervised or directed preparation of the final Removal Action Report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the final report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

VII. ON-SCENE COORDINATOR

A. EPA has designated Earl Liverman as the Federal On-Scene Coordinator ("OSC") for the Site. Respondents shall implement the Work in accordance with all oral and written directions of the OSC, and provide all written submissions required by this Order to the OSC. Respondents shall cooperate with the OSC or his designated representative at all times. Respondents shall not interfere with or impede the use of the authority vested in the OSC by the NCP, 40 C.F.R. § 300.120, including the authority to halt, conduct, or direct any action required by this Order, or to direct any removal action performed by EPA or any other party at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

B. The OSC contact information is as follows:

Earl Liverman
Federal On-Scene Coordinator
U.S. EPA Coeur d'Alene Field Office
1910 Northwest Boulevard, Suite 208
Coeur d'Alene, Idaho 83814
Telephone: (208) 664-4858
Cellular: (208) 651-8709
Fax: (208) 664-5829
E-Mail: liverman.earl@epa.gov

C. If EPA changes the designated OSC for the Site, Respondents will be so notified and will thereafter follow all requirements herein as directed to do so by the new OSC.

VIII. NONCOMPLIANCE AND ENFORCEMENT

A. The violation of any provision of this Order may subject Respondents to the imposition of civil penalties as provided in Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), and/or Section 7003(b) of RCRA, 42 U.S.C. § 6973(b). The amount of any such penalties is subject to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19. In addition, as reflected in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), Respondents may be subject to punitive damages or costs in an amount up to three times the costs incurred by the United States as a result of any failure by Respondents to undertake the actions required by this Order. Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions and/or seek enforcement of this Order.

B. Should the OSC determine that Respondents have failed to implement any aspect of the Work as prescribed by this Order, or should Respondents otherwise fail to adequately comply with a requirement of this Order, EPA may assume performance of any or all portion(s) of the Work and require that any funds guaranteed under any applicable financial assurance mechanism be paid in accordance with the terms of that financial assurance mechanism, and Respondents shall discontinue any or all aspect(s) of the Work as may be directed by the OSC.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order any and all actions deemed necessary to protect public health or welfare or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or solid waste, on, at, or from the Site, including but not limited to the right to bring enforcement actions under CERCLA, RCRA, and any other applicable statutes or regulations. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, RCRA, or any other applicable law. EPA reserves the right to bring an action against Respondents for the recovery of any response costs incurred by EPA or the United States related to this Order or the Site.

X. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. In addition, this Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Further, nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, RCRA, other statutes, or common law, including, but not limited to, any claims of the United States for costs, damages and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973.

XI. MODIFICATION, AMENDMENT, DEVIATION AND ADDITIONAL ACTION

A. Modification to a plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized later in writing; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of this Order, or any other portion thereof, may be modified by amendment issued by the Director, Office of Environmental Cleanup, EPA, Region 10.

B. If Respondents seek permission to deviate from a plan or schedule, Respondents shall submit a written request to EPA, for review and approval, outlining the proposed deviation and the reasons therefore. No informal advice, guidance, suggestion or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligations to obtain formal approval as may be required by this Order and to comply with all requirements of this Order.

C. If EPA determines that additional action is necessary to protect the public health or welfare or the environment, EPA may require the performance of such action by Respondents under an amendment to this Order or in any other authorized manner.

XII. NOTICE OF COMPLETION

Following review of the final Removal Action Report, if EPA determines that the Work has been performed in accordance with this Order, with the exception of any continuing obligations required by this Order, EPA will so notify Respondents. If EPA determines that the Work has not been completed in accordance with this Order, EPA will so notify Respondents and provide a list of the deficiencies. Respondents shall implement the Work deemed deficient by EPA in accordance with the schedule provided by EPA. Respondents shall then provide a modified final Removal Action Report to EPA. The failure of Respondents to implement the Work shall be a violation of this Order.

XIII. ADMINISTRATIVE RECORD

The administrative record supporting this Order is available for review at the EPA office located at 1200 Sixth Avenue in Seattle, Washington. Arrangements to review the administrative record may be made by contacting Richard D. Mednick, Associate Regional Counsel for EPA, at telephone number (206) 553-1797 or electronic mail address "mednick.richard@epa.gov".

XIV. INSURANCE

At least **10 days** prior to commencing any on-Site activities under this Order, Respondents shall secure, and shall maintain for the duration of the on-Site activities, comprehensive general liability insurance and automobile insurance with limits of **\$1,000,000**, combined single limit. Within this same time period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XV. FINANCIAL ASSURANCE

A. Within **30 days** of the Effective Date, Respondents shall establish and maintain financial security in the amount of **\$5,000,000** in one or more of the following forms, in order to secure the full and final completion of the Work by Respondents:

1. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
2. one or more irrevocable letters of credit issued by financial institution(s) acceptable in all respects to EPA;
3. a trust fund administered by a trustee acceptable in all respects to EPA;
4. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
5. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondents, or by one or more unrelated companies that have a substantial business relationship with at least one of Respondents; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. § 264.143(f); and/or
6. a demonstration of sufficient financial resources to pay for the Work made by one or more of Respondents, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. § 264.143(f).

B. Any and all financial assurance instruments provided pursuant to this Section shall be in a form and substance satisfactory to EPA. In the event that EPA determines any time that the financial assurances provided pursuant to this Section (including, without limitations, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within **30 days** of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within **30 days** of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Order.

C. If Respondents seek to ensure completion of the Work through a guarantee as specified in Paragraphs A.5 and A.6 above, Respondents shall: (1) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f); and (2) resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f). For purpose of this Order, wherever 40 C.F.R. § 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of **\$5,000,000** for the Work at the Site plus any federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

D. If at any time EPA is notified by the issuer of a financial assurance instrument that such issuer intends to cancel the financial assurance mechanism it has issued, then, unless Respondents provide a substitute financial assurance mechanism in accordance with this Section no later than **30 days** prior to the impending cancellation date, EPA shall be entitled (as of and after the date that is **30 days** prior to the impending cancellation) to require that any funds guaranteed under the then-existing financial assurance be paid in accordance with the terms of that financial assurance mechanism.

E. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph A of this Section, Respondents may reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, but may reduce the amount of the security only if they receive written approval to do so from EPA.

F. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval of EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section.

XVI. SEVERABILITY

If a court issues an order that invalidates any provision of this Order, or part thereof, or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, or part thereof, Respondents shall remain bound to comply with all provisions of this Order, including all parts thereof, not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XVII. OPPORTUNITY TO CONFER

A. Respondents have **5 days** of the date of issuance of this Order to request a conference with EPA for the purpose of presenting information or comments regarding this Order. To make such a request, Respondents must notify Richard D. Mednick, Associate Regional Counsel, EPA, Region 10, at telephone number (206) 553-1797, or electronic mail address "mednick.richard@epa.gov." If Respondents make a request as outlined above, Respondents shall have up to **10 days** of the date of issuance of this Order to participate in a conference with EPA. This **10-day** period may be extended by EPA should EPA find there is good cause to do so.

B. A conference under this Section may be held by means of an in-person meeting at the EPA office in Seattle, telephone, or telephonic video conferencing, if such equipment is available and compatible as between EPA and Respondents, or by a combination of one or more of these options. During a conference held under this Section, Respondents may appear in person and/or be represented by an attorney or other person, and may present information, arguments or comments regarding this Order, including but not limited to the appropriateness of its terms and applicability to Respondents. The conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not provide a right to seek review of this Order.

C. Within **5 days** of a conference held in accordance with this Section, Respondents shall provide EPA, in writing, the information, arguments and comments presented by Respondents during the conference. If no such conference is held, Respondents may submit to EPA, in writing, any information, arguments, or comments regarding this Order within **15 days** after the date of issuance of this Order.

XVIII. EFFECTIVE DATE

A. This Order shall be effective **20 days** after the date of issuance unless it is revised by EPA. Should EPA make any revision to this Order as a result of the information, arguments or comments presented by Respondents under Section XVII above, or for any other reason, EPA will so inform Respondents and provide Respondents with the revision to the Order. Should the Order be so revised by EPA, the Effective Date of this Order will be as specified by EPA in the revision to the Order.

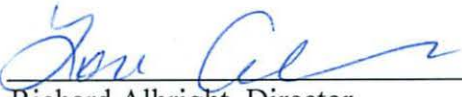
B. As of the Effective Date of this Order, the UAORRA is hereby rescinded by EPA.

XIX. NOTICE OF INTENT TO COMPLY

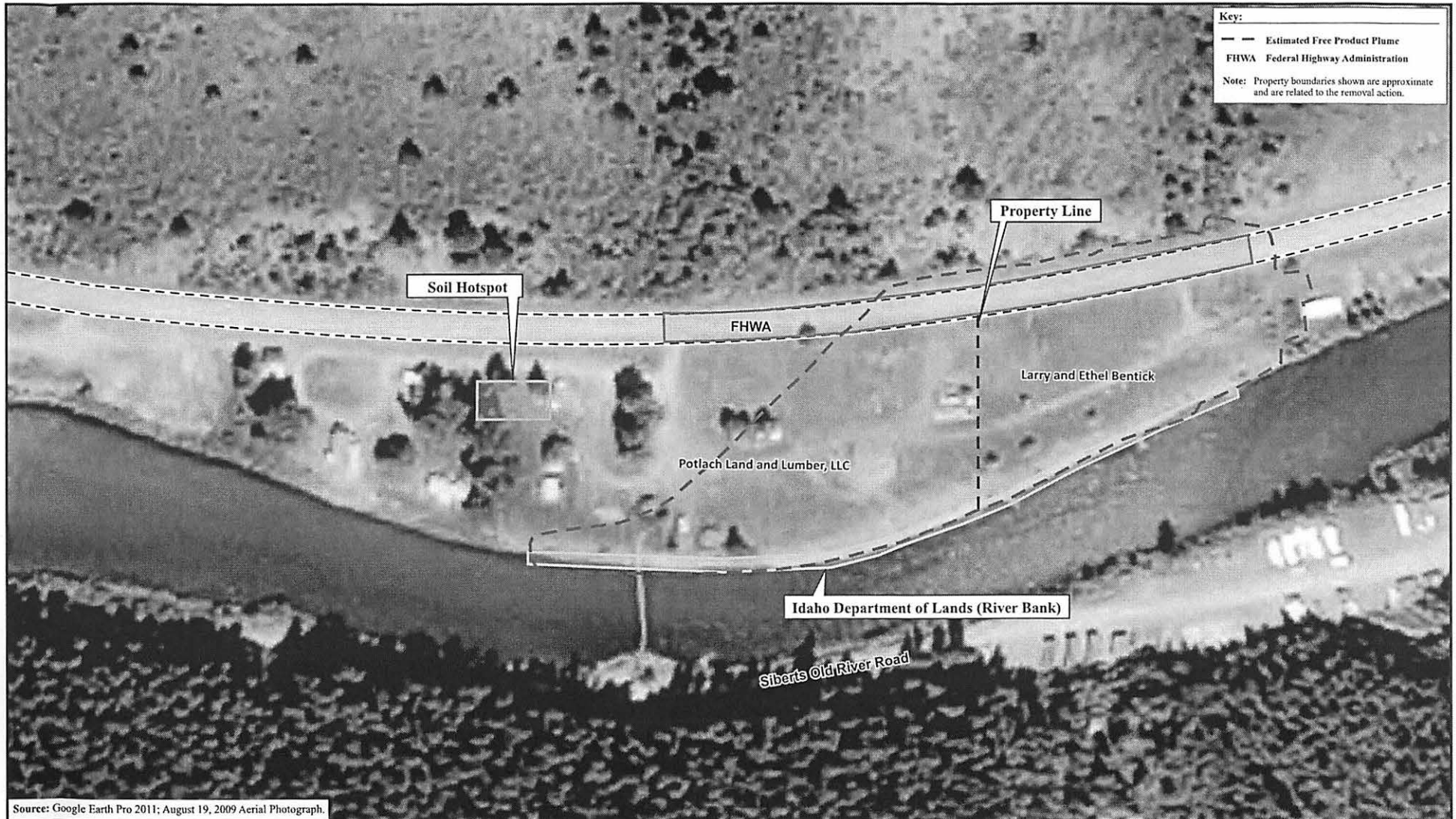
Within **5 days** of the Effective Date, Respondents shall provide notice to EPA of the irrevocable intent of Respondents to comply with this Order. Said notice shall be made by contacting, in writing, the OSC. The failure of Respondents to provide such notice within this time period shall be a violation of this Order.

IT IS SO ORDERED

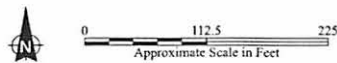
BY: _____


Richard Albright, Director
Office of Environmental Cleanup
Region 10
U.S. Environmental Protection Agency

ISSUANCE DATE: 4/4/13.



ecology and environment, inc.
Global Specialists in the Environment
Seattle, Washington



AVERY LANDING SITE
Avery, Idaho

AVERY LANDING SITE DIAGRAM

Date:
3/27/13

Drawn by:
AES

10:START-3\08050006\site diagram

Appendix A
Unilateral Administrative Order
EPA Docket No. CERCLA-10-2013-0094

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